

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 04 JUL 2006


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| Applicant's or agent's file reference 28844 | FOR FURTHER ACTION | | See Form PCT/PEA/416 |
| International application No. PCT/IL2005/000210 | International filing date (day/month/year) 20.02.2005 | Priority date (day/month/year) 24.02.2004 | |
| International Patent Classification (IPC) or national classification and IPC INV. A61B18/04 | | | |
| Applicant APPLISONIX LTD. et al | | | |

- This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 8 sheets, including this cover sheet.
- This report is also accompanied by ANNEXES, comprising:
 - ☒ sent to the applicant and to the International Bureau a total of 36 sheets, as follows:
 - ☒ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

- This report contains indications relating to the following items:
 - ☒ Box No. I Basis of the report
 - ☐ Box No. II Priority
 - ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - ☒ Box No. IV Lack of unity of invention
 - ☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - ☐ Box No. VI Certain documents cited
 - ☒ Box No. VII Certain defects in the international application
 - ☐ Box No. VIII Certain observations on the international application

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|---|---|
| Date of submission of the demand 22.09.2005 | Date of completion of this report 03.07.2006 |
| Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 | Authorized officer Gaillard, A Telephone No. +49 89 2399-7474 |



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/IL2005/000210

Box No. I Basis of the report

1. With regard to the **language**, this report is based on
- ☒ the international application in the language in which it was filed
 - ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3(a) and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4(a))
 - ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-34 received on 29.12.2005 with letter of 27.12.2005

Claims, Numbers

1-300 received on 23.05.2006 with letter of 21.05.2006

Drawings, Sheets

1/9-9/9 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
☒ claims Nos. 1-24,76-99,152-175,228-247

because:

- ☒ the said international application, or the said claims Nos. 1-24,76-99,152-175,228-247 relate to the following subject matter which does not require an international preliminary examination (*specify*):

see separate sheet

- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed (*specify*).
- ☒ no international search report has been established for the said claims Nos. 1-24,77-248
- ☐ a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:
- ☐ furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it.
- ☐ furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it.
- ☐ pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13*ter*.1(a) or (b) and 13*ter*.2.
- ☐ a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions, and such tables were not available to the International Preliminary Examining Authority in a form and manner acceptable to it.
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.
- ☐ See separate sheet for further details

**INTERNATIONAL PRELIMINARY REPORT
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Box No. IV Lack of unity of invention

1. ☒ In response to the invitation to restrict or pay additional fees, the applicant has, within the applicable time limit:
- ☐ restricted the claims.
 - ☐ paid additional fees.
 - ☐ paid additional fees under protest and, where applicable, the protest fee.
 - ☐ paid additional fees under protest but the applicable protest fee was not paid.
 - ☒ neither restricted the claims nor paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:
- ☒ complied with.
 - ☐ not complied with for the following reasons:
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☐ all parts.
 - ☐ the parts relating to claims Nos. .

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------|-------------------------------|
| Novelty (N) | Yes: Claims | 25-75,248-300 |
| | No: Claims | |
| Inventive step (IS) | Yes: Claims | 25-75,248-300 |
| | No: Claims | |
| Industrial applicability (IA) | Yes: Claims | 25-75,100-151,176-227,248-300 |
| | No: Claims | 1-24,76-99,152-175,228-247 |

2. Citations and explanations (Rule 70.7):

see separate sheet

**INTERNATIONAL PRELIMINARY REPORT
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Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

No Search Report has been established in respect of claims 1-24,77-100,153-176,229-248 under Article 17(2)(a) PCT, because these Claims relate to a excluded subject matter under Rule 39.1(iv) PCT.

Further,claims 1-24,76-99,152-175,228-247 do not meet the requirement of the Rule 67 (iv) PCT, because the subject-matter of claims 1-24,76-99,152-175,228-247 appears to relate to a method for treatment of a human or animal body by surgery and by therapy, which is an excluded matter (e.g. damage or destroy follicle). Therefore no examination is performed in view of Article 34.4(a)(i) PCT.

Said claims should be deleted from the application.

Re Item IV

Lack of unity of invention

The separate groups of inventions are:

claims 25-75, 248-300
treating hair through heating.
claims 100-151
treating hair through gripping.
claims 176-227
treating hair through vibrations minimizing of the hair.

They are not so linked as to form a single general inventive concept (Rule 13.1 PCT) for the following reasons:

Claim group 25-75, 248-300, claim group 100-151 and claim group 176-227 do not appear

to define any common concept binding the respective three subject matters of said three claim groups, which common concept could acknowledge an inventive ingenuity over first cited the prior art.

Therefore the present application lacks unity.

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

V.1 Reference is made to the following documents:

D1: US-A-5 143 063 (FELLNER ET AL) 1 September 1992 (1992-09-01)

D2: US 2002/055693 A1 (THOMPSON TODD A ET AL) 9 May 2002 (2002-05-09)

V.2 The document D1 is regarded as being the closest prior art to the subject-matter of independent device claims 25 and 248, and discloses a device using ultrasonic waves for generating heat in order to destroy cells which is suitable to remove hair.

V.3

- The feature of claim 25 "*wave condenser for griping the hair*" appears prima facie not to form part of the cited prior art and the subject matter of **claim 25** might therefore **acknowledge an inventive ingenuity over said cited prior art**.
- The subject matter of claim 248, defining an acoustic transducer by a frequency range of 150 to 1300 kHz, appears prima facie not to form part of the cited prior art and to involve an inventive step over the cited prior art through the presence of the essential feature "*transmitting through the hair*".

V.4 Dependent claims 26-75 are dependent on claim 25 and as such also meet the requirements of the PCT with respect to novelty and inventive step.

V.5 Dependent claims 249-300 are dependent on claim 284 and as such also meet the requirements of the PCT with respect to novelty and inventive step.

Re Item VII

Certain defects in the international application

The attention of the applicant is drawn to the fact that the application may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed.

Reference signs of the drawings should be mentioned in all independent and **dependent** claims to these features.

Independent claims are not in the **two-part form**, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble and with the remaining features being included in the characterising part.

The dependant claims should be drafted having regard to the new independent claim.